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IN THE

Supreme Court of the United States

October Term, 1968

No. ~~999~~ 33

PAUL E. SULLIVAN, et al.,

v.

LITTLE HUNTING PARK, INC., et al.,

T. R. FREEMAN, Jr., et al.,

v.

LITTLE HUNTING PARK, INC., et al.,

Respondents.

**MOTION BY THE ANTI-DEFAMATION LEAGUE
OF B'NAI B'RITH, THE NATIONAL COMMITTEE
AGAINST DISCRIMINATION IN HOUSING, THE
AMERICAN CIVIL LIBERTIES UNION AND THE
AMERICAN JEWISH COMMITTEE FOR LEAVE
TO FILE A JOINT BRIEF AS AMICI CURIAE**

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No. 929

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The undersigned, as counsel for the Anti-Defamation League of B'nai B'rith, the National Committee Against Discrimination in Housing, Inc., the American Civil Liber-

ties Union and the American Jewish Committee move this Court for leave to file a joint brief as *amici curiae* in both above entitled cases.

B'nai B'rith, founded in 1843, is the oldest civic service organization of American Jews, which represents a membership of more than 500,000 men, women and their families. The Anti-Defamation League was organized in 1913 as a section of the parent organization to advance goodwill and proper understanding among Americans and translate into greater effectiveness the ideals of American democracy. It is, therefore, dedicated to combating all aspects of religious and racial discrimination.

The American Jewish Committee, founded in 1906, was incorporated by Act of the Legislature of the State of New York in 1911. Its objective is to advance the civil and religious rights of persons of Jewish faith within the framework of the American ideal of granting equal opportunities to everybody regardless of race, color or creed.

It has been among the fundamental tenets of these organizations that the welfare and the security of members of a racial and religious minority in the United States depend upon the preservation of constitutional guarantees for all, and that an invasion of the rights of any minority group is ultimately a threat to the rights of all groups and of the individual members thereof.

The National Committee Against Discrimination in Housing, Inc. established in 1950 and incorporated in 1969 as a non-profit organization, is dedicated to the elimination

of racial and religious discrimination and segregation in the sale and rental of housing, and to assuring that all persons enjoy equal opportunity in housing throughout the United States.

The American Civil Liberties Union, a national non-profit organization established in 1920, is committed to the inseparable purposes of preserving the democratic principles for which our government was established and to maintain endowed civil liberties. Together with all Americans who prize the blessings of United States citizenship and the privileges of freedom which it brings, the organization seeks to guard against the arbitrary deprivation of our birthrights, which include the right to equal opportunity in housing regardless of race or color.

All four organizations are united on the need for insuring that both government and private programs affecting housing do not extend and indurate existing patterns of racial segregation in housing.

The organizations submitting this petition have often appeared before this Court as *amici curiae* in cases involving racial discrimination. Among the cases in which at least two of these organizations appeared are the *School Segregation Cases*, 347 U.S. 483 (1954), *Colorado Commission v. Continental Airlines, Inc.*, 372 U.S. 714 (1963) and *Jones v. Alfred H. Mayer Company*, 392 U.S. 409 (1968). The last mentioned case dealt specifically with the problem of racial discrimination in housing.

The cases at bar place in issue the legality of a scheme the purpose and effect of which is to prevent members of the

Negro race from renting housing in a suburban area. As the facts show, a corporation which owns the recreation facilities in a certain suburban area permits the use of those facilities only to home owners in the community who are holders of stock of the corporation. As the facts further show, the corporation requires its consent for the transfer of a share of stock to a new land owner or lessee, and such consent has been refused in the case at bar because of the transferee being of the Negro race. In addition, the corporation has cancelled the share of stock of the white owner who has sought to transfer one of his shares to the Negro to whom he had leased a house he owned in the community. The effect of this practice is to prevent a Negro leasing a home in this area from making full use of the facilities and services which are an incident of the property he is leasing, and to make it difficult for white home owners to sell or lease their property to a Negro.

Thus, this practice of the respondents, if permitted to stand, would serve to perpetuate the pattern of black ghettos in our central cities surrounded by a ring of lily-white suburbs, a pattern which is pregnant with danger of racial strife and explosions of violence and hatred.

Two of the organizations in whose behalf this petition is being submitted devoted their brief *amicus curiae* in *Jones v. Mayer* to establishing the proposition that the prohibition of racial discrimination in property transactions contained in the Federal Civil Rights Act of 1866 is a valid provision, enforceable not only against state and state agencies but also against private individuals. In this

connection that brief dealt extensively with the legislative history of the 1866 Act which, in the view of the *amici*, fully supported that proposition, which subsequently was also adopted by this Court in its decision in *Jones v. Mayer*.

In the present case, other language of the 1866 Act, that involving discrimination in personal property transactions (42 U.S.C. 1982) and discrimination in the making and enforcing of contracts (42 U.S.C. 1981) is also in issue. The *amici* believe that in view of the extensive legal and other research they did in connection with their brief in the *Jones v. Mayer* case, they can now make a valuable contribution towards establishing the true meaning and impact of those other clauses of the 1866 Civil Rights Act which survive in Sections 1981 and 1982 of Title 42 of the United States Code, in the light of the legislative history of the act.

The attorneys for the petitioners have consented to our submitting a joint brief *amici curiae* in both related cases. This motion is necessary because the attorney for the respondents has advised us that he is not prepared to consent to the filing of the brief by our organizations because it is hard for him to believe "that the organizations mentioned * * * would file a non-partisan brief."

In reply, it is pointed out that it is not our purpose to submit a partisan brief but one which will deal with the pertinent issues in an objective manner, using as authority previous rulings by this Court, including its decision in *Jones v. Alfred H. Mayer*.

Because of our effort to comply with the practice of filing briefs *amicus* at not later than the date of required filing of the party's brief we are attaching our brief *amicus* hereto.

Respectfully submitted,

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